DESCRIPTION OF S. 376

("CHILD HEALTH INCENTIVES REFORM PLAN")

Scheduled for a Hearing

Before the

SUBCOMMITTEE ON SAVINGS, PENSIONS

AND INVESTMENT POLICY

of the

COMMITTEE ON FINANCE

on September 16, 1985

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The Subcommittee on Taxation and Debt Management of the Senate Committee on Finance has scheduled a public hearing on September 16, 1985, on S. 376 (introduced by Senator Chafee). This bill, the "Child Health Incentives Reform Plan," would disallow deductions (effective for post-1985 taxable years) for employer contributions to an employee group health plan unless the plan includes coverage for pediatric preventive health care.

This document,[1] prepared by the staff of the Joint Committee on Taxation, summarizes present law and the provisions of the bill.

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[1] This document may be cited as follows: Joint Committee on Taxation, Description of S. 376 ("Child Health Incentives Reform Plan") (JCX-19-85), September 12, 1985.

SUMMARY

Present Law

Under present law, employer contributions to employee health plans and the benefits paid under these plans generally are excluded from the employee's income and wages for Federal income tax and employment tax purposes. The employer generally may deduct the cost of these excludable benefits.

Present law generally does not specify what types of health benefits must be provided under an employer plan in order to obtain these tax benefits. However, no deduction is allowed for employer contributions to a group health plan that discriminates against individuals with end stage renal (kidney) disease.

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Under the bill, effective for taxable years beginning after 1985, no deduction would be permitted for employer contributions to a group health plan unless the plan includes coverage for pediatric preventive health care.

Pediatric preventive health care would be defined to include (1) the determination of health and development history, (2) comprehensive unclothed physical examinations, (3) developmental and behavioral assessments, (4) appropriate immunizations, laboratory procedures, and vision and hearing testing, and (5) any other medical services that are required by regulations to be issued by the Treasury Department.

DESCRIPTION OF THE BILL

Present Law

Overview

Present tax law includes several incentives designed to encourage employers to provide health benefits to their employees. Employer contributions to a plan providing accident or health coverage, and certain benefits actually paid under such plans, are not subject to income tax, social security tax, or unemployment tax. At the same time, employer contributions to fund such excludable medical benefits are deductible, within limits.

If such benefits are prefunded through a nondiscriminatory welfare benefit fund or qualified pension plan, employers may claim deductions for additions to qualified reserves. Additional contributions are permitted to be made on a deductible basis to provide post-retirement health benefits for former employees. These deductible reserves are also permitted to accumulate in a trust that is exempt from income tax and, in part, from the unrelated business income tax.

Exclusion for employer-provided medical benefits

Gross income, for Federal income tax purposes, includes "all income from whatever source derived" (Code sec. 61(a)). This provision "is broad enough to include in taxable income any economic or financial benefit conferred on the employee as compensation, whatever the form or mode by which it is effected" (Comm'r v. Smith, 324 U.S. 177, 181 (1945)).

However, if an employer-provided fringe benefit program qualifies under a specific statutory provision of Federal income tax law, then the benefits provided under the program are excludable (generally, subject to dollar or other limitations) from the employee's gross income for income tax purposes. The costs of benefits that are excluded from the employee's income nonetheless are deductible by the employer, provided they constitute ordinary and necessary business expenses. The income tax exclusions also generally apply for social security and other employment tax purposes.

Under present law, an employer's contributions to a plan providing accident or health benefits are excludable from the employee's income (sec. 106). Reimbursements to employees under an employer's health plan for costs incurred for medical expenses (within the meaning of sec. 213), and payments unrelated to absence from work, are excluded from the employee's gross income (sec. 105(b)). Similar exclusions apply for employment tax purposes.

Other benefits actually paid under accident and health plans, such as certain disability benefits, generally are includible in the employee's gross income to the extent attributable to employer contributions (sec. 105(a)). In the case of a self-insured medical reimbursement plan (sec. 105(h)), no exclusion is provided for benefits paid to any employee who is among the five highest-paid officers, a 10-percent shareholder, or among the 25-percent highest-paid employees if the program discriminates in favor of this group as to either eligibility to participate or the medical benefits actually provided under the plan.

Employer deductions for funding medical benefits

A deduction is allowed to an employer for compensation paid to employees in the form of contributions to or benefits paid under a health plan, provided such costs constitute ordinary and necessary business expenses (sec. 162).

Effective for taxable years beginning after 1981, no deduction is permitted for expenses paid or incurred by an employer for a group health plan if the plan differentiates in the benefits it provides between individuals having end stage renal (kidney) disease and other individuals (sec. 162(i)(1)). Thus, no deductions are permitted for contributions to a group health plan that differentiates directly or indirectly on the basis of the existence of end stage renal disease or the need for renal dialysis.

Explanation of Provisions

Under the bill, no deduction would be allowed for employer contributions to a group health plan unless the plan provides coverage for pediatric preventive health care with respect to any child of a covered employee who has not attained age 21. As under present law, a group health plan would be defined as any employer plan to provide medical care to employees, former employees, or the families of such employees, directly or through insurance, reimbursement, or otherwise.

The bill would define pediatric preventive health care to include (1) the determination of a child's health and development history, (2) comprehensive unclothed physical examinations, (3) developmental and behavioral assessments, (4) immunizations considered appropriate for the child's age, health, and developmental history, (5) laboratory procedures appropriate for the child's age and population group, and (6) appropriate vision and hearing testing, including referral for treatment as necessary. In the event of any referral, pediatric preventive health care need not include the subsequent services for which the referral is made.

In addition, pediatric preventive health care would

include any other medical services as required pursuant to Treasury regulations. The bill requires that the Secretary of the Treasury, in promulgating such regulations, must consult with the Secretary of Health and Human Services and appropriate medical organizations involved in child health care.

The bill would be effective for taxable years beginning after December 31, 1985.